

STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

In the Matter of Application 20439
of R. Simoni to Appropriate from
Hay Canyon in Santa Clara County

Decision D 1251

ADOPTED JUN 1 1966

DECISION APPROVING APPLICATION

R. Simoni having filed Application 20439 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestant having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Rights Board pursuant to said stipulation; the Board, having considered all available information and now being fully advised in the premises, finds as follows:

1. Application 20439 is for a permit to appropriate 150 acre-feet per annum (afa) by storage from November 15 of each year to March 15 of the succeeding year for irrigation, stockwatering and domestic purposes from Hay Canyon in Santa Clara County. The point of diversion is located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 1, T10S, R2E, MDB&M.

2. The applicant has constructed a dam approximately 1.4 miles below the headwaters of Hay Canyon and approximately 0.4 mile above the confluence of Hay Canyon and Uvas Creek. The reservoir formed by the dam has a capacity of approximately

115 acre-feet. On February 8, 1966, the flow of water in the canyon approximately 100 feet downstream from the dam was 0.26 cubic foot per second, and the reservoir was spilling.

3. The water impounded in the applicant's reservoir is conveyed through 4,000 feet of 6-inch pipe, principally for irrigation use on 110 acres. The applicant also collects seepage from the dam approximately 600 feet downstream from the dam and pumps it into a sprinkler system.

4. Protestant South Santa Clara Valley Water Conservation District, hereinafter referred to as "the District," has constructed a dam and reservoir with a capacity of 10,000 acre-feet on Uvas Creek approximately 2 miles below its confluence with Hay Canyon. The water is used to recharge the ground water basins underlying the District by releasing it from the reservoir to percolate into the Uvas Creek streambed and it is also transported to Llagas Creek for percolation in that streambed. As part of the ground water supply, the water is used on approximately 32,700 acres within the District. The District's project is covered by License 6422 to divert 10,000 afa from Uvas Creek by surface storage from about November 1 of each year to about May 1 of the succeeding year, and 14,400 afa by underground storage to be collected from about February 1 to about July 31 of each year. The maximum rate of diversion to off-stream storage has been 50 cfs and the maximum withdrawal from surface storage in any one year has been 9,915 acre-feet.

5. The records of a USGS gaging station which was formerly located on Uvas Creek near Morgan Hill, approximately 1.5 miles downstream from the Hay Canyon-Uvas Creek confluence, cover the flows of Uvas Creek for the period October 1930 to April 1956. A comparison of these records of the creek's flow with the requirements of the District based on uses recognized by License 6422, percolation capacities of Uvas and Llagas Creeks, the storage capacity of Uvas Reservoir, and necessary releases for the maintenance of fishlife under the District's agreement with the Department of Fish and Game of February 28, 1956, shows that water occurred surplus to the District's needs in 13 out of 26 years of the period of record.

6. There is unappropriated water available to supply the applicant, and subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

8. During years when water occurs in excess of the District's rights, the excess has been evident no later than June 1.

9. To protect the District during years in which there is insufficient water to satisfy its prior rights, the permit issued on Application 20439 should contain a term providing that when the District's records show that water impounded in the reservoir, along with water spilled and water released from the reservoir by June 1 is less than

24,400 acre-feet, the permittee will be required to release water from his Hay Canyon Reservoir to satisfy such a deficiency. However, the District has indicated that it has no objection to the applicant storing 15 acre-feet of water in his reservoir during any season. The permit term should further provide that the permittee shall be allowed to maintain his reservoir at the 15 acre-foot level, without regard to any deficiency in the District's supply. The term should also provide that the applicant will not be required to release water from storage to the extent that spills and releases from Uvas Reservoir exceed the necessary release for fishlife plus water released or diverted to underground storage at the maximum percolation capacity of the stream channels pursuant to License 6422.

10. The District contends that the applicant plans to pump from Uvas Creek or from the District's reservoir for storage in his Hay Canyon Reservoir. As the approval of Application 20439 will not authorize any such diversion, no proper issue is raised by this contention.

From the foregoing findings, the Board concludes that Application 20439 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the following Order.

The records, documents, and other data relied upon in determining the matter are: Applications 20439 and 13886 (License 6422) and all relevant information on file therewith,

particularly the report of the field investigation made February 8, 1966; U. S. Geological Survey, Water Supply Papers, Part 11, "Pacific Slope Basin"; State Water Resources Board Bulletin No. 7, "Santa Clara Investigation"; and U. S. Geological Survey quadrangle covering the area under consideration.

ORDER

IT IS HEREBY ORDERED that Application 20439 be, and it is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 150 acre-feet per annum by storage to be collected from about November 15 of each year to about March 15 of the succeeding year.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Complete application of the water to the proposed use shall be made on or before December 1, 1969.

4. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

5. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

6. Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and to the extent that appropriation of water is not authorized under this permit. Permittee shall install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the natural stream channel, or provide other means satisfactory to the State Water Rights Board to comply with this paragraph.

7. If by June 1 in any year the records of South Santa Clara Valley Conservation District show that the quantity of water impounded in Uvas Reservoir plus the quantity of water spilled at and released from the reservoir since the preceding November 1 is less than 24,400 acre-feet, at the request of the District the permittee shall release water stored in his Hay Canyon Reservoir to the extent that such deficiency occurs, provided that permittee may retain in his reservoir (a) 15 acre-feet or the amount of water in storage on the preceding October 1, whichever is greater, plus (b) a quantity of water

equal to the accumulated release and spill from Uvas Reservoir in excess of:

- (1) 10 cfs from November 1 to December 1
- (2) 60 cfs from December 1 to December 15
- (3) 70 cfs from December 15 to June 1

8. Permittee shall install and maintain a staff gage approved by the State Water Rights Board in his reservoir.

9. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the reservoir of all structures, trees and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

10. Permittee shall allow representatives of the State Water Rights Board, representatives of the South Santa Clara Valley Water Conservation District and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Rights Board at a meeting duly called and held at Sacramento, California, on the day of 1966.

/s/ Kent Silverthorne
Kent Silverthorne, Chairman

/s/ Ralph J. McGill
Ralph J. McGill, Member

/s/ W. A. Alexander
W. A. Alexander, Member